

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE:

LANDRY, KIM ALEXIS

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§
§

CASE NO: 11-51543

DEBTOR(S)

CHAPTER 13

OBJECTION TO PROOF OF CLAIM

(GE Money Bank, aim #7)

NO HEARING WILL BE CONDUCTED ON THIS OBJECTION UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED ON THE PARTY FILING THIS OBJECTION TO CLAIM WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE HEREOF, UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH REQUEST FOR HEARING. IF NO RESPONSE IS TIMELY SERVED AND FILED, THE OBJECTION TO CLAIM SHALL BE DEEMED TO BE UNOPPOSED AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING ON NOT LESS THAN THIRTY (30) DAYS NOTICE.

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Debtor¹ in the above-styled and numbered cause, and files this Objection to Proof of Claim filed by GE Money Bank, (Claim #7), and in support thereof would show the Court the following:

I.
JURISDICTION & VENUE

This Court has jurisdiction pursuant to 28 U.S.C. §§ 1334(b) and 157(a). This is a “core proceeding” pursuant to 28 U.S.C. § 157(b)(2) arising in a voluntary case commenced under Title 11 U.S.C. This is a contested matter brought pursuant to L. Rule 9014 and Rule 9014 of the Federal Rules of Bankruptcy Procedure². Venue is proper pursuant to 28 U.S.C. § 1408(1).

¹ So denominated whether individual or joint.

² All references to "Rule" here in shall refer to the Federal Rules of Bankruptcy Procedure.

II.
BACKGROUND

Debtor filed a chapter 13 bankruptcy case on May 2, 2011. The "first date set" for the meeting of creditors was June 1, 2011. The Chapter 13 Plan has not yet been confirmed.

III.
PROOF OF CLAIM

The Proof of Claim asserts that **GE Money Bank**, (Claim #7) is a creditor holding an unsecured claim in the amount of \$8,902.65 and attached the following documents to its Proof of Claim: Account Summary, Sales Slip, Consumer Application, Invoice and Certificate of Title.

IV.

GROUNDS FOR OBJECTION

The Proof of Claim does not constitute a *prima facie* claim because it does not comply with the requirements set forth in Rule 3001 nor does it meet the substantive requirements set forth in Rule 3001 nor does it meet the substantive requirements set forth in 11 U.S.C. §502(b). Debtor makes this objection to the allowance of the claim in accordance with Rule 3007 and hereby objects to the claim on the following grounds:

1. The Proof of Claim does not "conform substantially to the appropriate Official Form" in that the documents necessary to support the claim are not attached thereto as required by Official Form 10 and Rule 3001(a).

2. GE Money Bank is not the holder of a "claim" as defined by §101(5) and therefore, cannot be a "creditor" as defined by §101(10). GE Money Bank is not the original creditor and the rights of the original creditor were not transferred or assigned to claimant. As Such, Claimant is not a party in interest with standing to assert a claim under §501 and §502.

3. Alternatively, the debt is not a secured debt since the collateral, listed on the proof of claim, is no longer in the possession of the Debtor.

V.

RELIEF REQUESTED

The Proof of Claim and its supporting documents, if any, do not support the validity and/or the amount of the claim, and Debtor hereby disputes that to the extent not so supported. Therefore, pursuant to 11 U.S.C. §502(b), the claim should be disallowed in its entirety and shall not receive a distribution under the plan.

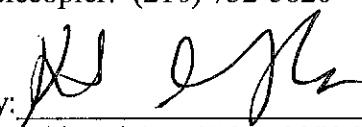
PRAYER

Wherefore, premises considered, Debtor requests that this court enter an order consistent with the relief herein requested and further provide for any other relief to which the Debtor may be entitled.

Respectfully submitted,

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